

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to beryllium standards

The Labor Commissioner hereby amends Chapter 10, “General Industry Safety and Health Rules,” and Chapter 26, “Construction Safety and Health Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 88.5 and 29 CFR 1953.5.

Purpose and Summary

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), published amendments to the general industry and construction standards concerning exposure to beryllium and beryllium compounds in January of 2017. The new standards are based on a finding that the previous exposure limits were too high to prevent occupational lung cancer and chronic beryllium disease.

Subsequently, federal OSHA published two notices delaying implementation of the new beryllium standards. In the summer of 2017, federal OSHA formally proposed to revoke a portion of the new beryllium standards concerning construction. Federal OSHA also provided notification that it would not enforce those portions of the beryllium standards that are subject to revocation.

The Labor Commissioner published a Notice of Intended Action to adopt the new beryllium standards on April 26, 2017, as **ARC 3029C**. No further action was taken on that Notice.

Pursuant to both federal and state law, the Iowa Labor Commissioner must conform with federal standards. These amendments will make Iowa’s beryllium enforcement conform to federal beryllium enforcement.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3593C**. No public comments were received. The effective date was changed from May 2, 2018, to May 11, 2018, in order to coincide with the federal effective date.

Adoption of Rule Making

This rule making was adopted by the Labor Commissioner on March 7, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, the Commissioner finds that jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:
82 Fed. Reg. 2735 (January 9, 2017)

ITEM 2. Adopt the following new rule 875—26.2(88):

875—26.2(88) Beryllium exposure limits. Effective May 11, 2018, the eight-hour time-weighted average permissible exposure limit for beryllium is 0.2 micrograms per cubic liter, and the short-term exposure limit for beryllium is 2.0 micrograms per cubic meter over a 15-minute sampling period.

This rule is intended to implement Iowa Code section 88.5.

[Filed 3/7/18, effective 5/11/18]

[Published 3/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/18.